G. R. S. 59]

[Important Case
Filed with orders]

GENERAL AND REVENUE SECRETARIAT.

1902-8
(Courts)

File No. 32 — 12

Serial Nos. 1

Papers Filed.

Month November 1912

SUBJECT.

Recruitment in Mysore of warrants to be issued by the Collector, civil & military Stations, Bangalore

PREVIOUS REFERENCES.	LATER REFERENCES.
	Cts. 218-19 (1-4). 110-23 (1-4)

Secretary
Officer

G.R.S. 11] 1912-13.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES..

Cts File No. 32-12.

FILE HEADING.

Execution in Mysore of warants for the levy of income tax under the orders of the Collector C & M. Station.

From The Dy Commissioner, Bangalore District.

No. S. 46 Dated 29th July 12 Received 30.7.12.

Diary No. 1297. | Enclos. nil Spare Copies. | Serial No. 1.

BRIEF ABSTRACT OF LETTER.

Enquires whether Govt have passed orders specially directing any Revenue Court in Mysore to execute under section 43 of the Code of Civil Procedure, an order passed by the Collector C & M. Station, Bangalore for the levy of income tax.

NOTES AND ORDERS.

The general question of execution of decrees of British Indian Courts in Mysore is being dealt with in Govt. file No. 314-1 Subs 6 Sewan on 31/7/12

Subs. An order of the Collector of the C. and M. Station of Bangalore under Section 30(1) of the Indian Income ~~Tax~~ Act is a Civil Court decree, and it may be executed by any Civil Court

NOTES—First Sheet.

GPB—30,000—12-8-11

I. R. S. 12]

General and Revenue Secretariat. | Cls File No. 32 of 1912-13.

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A 11

B 11

or such of the Revenue Courts as are "Specially directed by Govt in that behalf in Mysore" (Section 43 of the Code of Civil Procedure). No such direction as is referred to above appears to have been given to any Rev. Court till now. The Dy Commissioner, Bangalore District states (at the end of his letter) that requisitions are being constantly received from the Collectors of the British Presidencies for the recovery of dues from the persons residing in Mysore, and solicits early instructions in the matter. This raises the larger question of making all the decrees of the Revenue Courts in British India executable by the Revenue Courts in Mysore. Section 43 of the Code of Civil Procedure provides that such decrees can be executed by our Civil Courts. The more immediate question is in regard to the order of the C & M Station (the Collector of) under the Income Tax Act, which has the force of a decree

NOTE—Contn. sheet.

GPB—20,000—20-1-12

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of a Civil Court. Subg for orders.
Secs 132 IV (11)
31.7.12

V After hearing the Correspondence the question has been settled that the orders of the Collector of the Ct in St^h of Bangalore under Sec 30 (1) of the Income tax Act- Shd be executed by our Civil and Revenue Courts and the decision has been embodied in the Explanation to Sec 43 of the present Civil Procedure Code

So there is no use Considering the question on the merits

3 The point now is whether the Deputy Commr of Bangalore may be notified to be a Revenue Court Specially directed by Govt in this behalf, as contemplated in Sec 43 This may be done a draft notification is put up.

4 No such Special direction wd be necessary for the Execution of the order by our Civil Courts but the

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

G. R. S. 12]

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C & M Sr^ns authorities apparently want the order to be executed by our Revenue Courts.

2. A draft notification is put up.

3. If it is considered desirable that the D.C. of Bangalore shd be empowered to execute decrees of Revenue Courts in British India generally, then the words "the decrees of Revenue Courts in British India and" may be inserted between "execute" and "the" in the 3rd line of the draft as shown in pencil.

4. But I don't think the D.C. is receiving decrees for execution orders for recovery of revenue (including inam etc.) passed by Br. Indian officers under decrees under Sec 43 of the Code except in the special case of the orders of the Collector of the C & M Sr^ns in regard to inam etc.

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat.

Ch File No. 32 of 191 2 -

Serial No.

Subdt to Secy

SA

31/7/12

Secy

I am not sure of the
any necessity at all to Expense
the Dept. Cont. of Bangalore to Execute
decrees orders of the Income tax
Collector of the C & M Station. The
Civil Procedure Code provides for the
execution of such decrees by the Civil Courts
and the Collector of the C & M Station
may be asked to address the Civil
Courts concerned when any recovery
has to be made in accordance with
any order passed by him under the
Income tax Act

As regards the general question
raised by the Dy C of Bangalore I agree
with the Secy that orders in the
British Revenue for the recovery of
Revenue are not in the nature of
decrees of Civil Courts and that
the Dept. Contractors Engineers
cannot Engineers

1st Contractor

Hon S
please obtain the
file & Return
about it and
this

[illegible] 5/8/12

NOTE—Contn. sheet.

1/8/12

SA 4/8/12

GIP—55,000—1,6-12.

R. S. 12]

General and Revenue Secretariat. | Ch File No. 32 of 1912.

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4445	VD. I do not think that even if a notice like this is issued the Dy C. can execute ~~it by~~ a distress warrant issued by an Officer in the C. & M. Stn. It can be executed only as a decree i.e. somebody on behalf of the claimant should file an application & get it executed under the C.P. Code.
	II The Dy C., I think should reply & return the warrant pointing out the absence of authority; and if the matter comes up to us through the Residency, we may deal with it afterwards.
	Dewan 5/8/12
2705 7/8/12	
	12 The point noted in the 1st Comm. Note is one of procedure Thereupon a Minute one
	7/8/12

NOTE—Contn. sheet.

GIP—65,000—17-6-12.

General and Revenue Secretariat. | File No. of 191

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It will be for the Collector of the Coll. Nellore to say whether Mangalam Road & - But having the Reply in our Office it seems to me that the State is bound to meet the Mr Mangalam with power at least in regard to the Income Tax Act - I would suggest therefore that Nellore give without delay

Illegible

B III

13 Submitted for the perusal of the 1st Councillor & their wives by Hon'ble approves of the Dewan -

23/25/9

26/9/12

14 With due deference, I do not think that the difficulty is of such minor importance as the Dewan considers. The Hon'ble may issue & the difficulty may be met when it arises - though I doubt if our Rev Officers (in general) would

894

NOTE—Contn. sheet.

GIP—65,000—17-6-12.

R. S. 12]

General and Revenue Secretariat. | C.S. File No. 82 of 1912

Serial No.

be able to see it clearly.

26/9/12

15 Submitted to Dewan for perusal & 1st Councilor remarks & further orders.

3635 28.9.12

16 Mesr. Circulate to 2nd Councillor for his opinion having made the provision in the Civil Pro Code it is not clear why there should be any hesitation now in giving effect to it —

2nd Councilor

3/10

4/10

17 I do not think that the Court should issue as the provision under the civil procedure code governs the purpose

Seen 5816 7.10.12

Dewan 4/10

The matter may be dropped for the present 5/10

B III 20/10

NOTE.—Contn. sheet.

C.P.P.—65,000—1-6-12.

G. R. S. 12]

General and Revenue Secretariat.

File No. 32 of 1912

Serial No.

20 Subd bk Cr for perusal.

21/10/12

11/11

File

11/11

21 File for this perusal

11/11/12

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

DIARY No. J297

1912-1913
SECTION Courts
FILE No. 32-12
ITEM No. 1

Office of the Deputy Commissioner,
Bangalore District.

Dated Bangalore, 26th July 1912.

No. F.46

29

From

B.J.Kumaraswami Naik Esq., B.A.,
Deputy Commissioner, Bangalore District.

To

K.R.Sreenivasa Iyengar Esq., M.A.,
Offg; Secretary to the Government of H.H.
the Maharaja of Mysore, Genl and Rev.Deptts.

Sir,

I have the honor to state that the Collector of the Civil and Military Station, Bangalore, requested me in his letter No. 347 dated 16th October 1911, to recover the sum of 20/-due by Mr.J.G.Tait, on account of Income Tax under section 30(1) of the Income Tax Act II of 1886. Orders were issued to the Amildar of the Bangalore Taluk to take steps to recover the amount and send it to this office if paid without having recourse to coercive processes as per Government -- order No.8211/R1.167 dated 16th November 1876 in the matter of collections of revenue due to His Majesty's Government. In the meantime, the collector forwarded for execution a destraint -- warrant with his letter No.493/x-7 dated 27th February 1912 and requested me to recover the amount by destraint of the defaulter's moveables. In reply the Collector's attention was drawn to -- letter No.Pol.263 Mis. dated 18th April 1885, from the Chief Secretary to the Government of Madras, to the Resident in Mysore and he was informed that money ~~was~~ due to British Government could only be demanded and received if paid voluntarily, but that payment could not be enforced adopting coercive processes. The -- Collector has replied in his letter No.4 dated 2nd April 1912, inviting attention to Mysore Regulation No.VI of 1904 dated 17th September 1904 in which it is laid down that decrees or orders passed by any Civil or Revenue Court in British India or of any Civil or Revenue Court established by the Governor General of -- India in Council, in Mysore or in the territories of any Prince or Native State etc.may be executed within the jurisdiction of

Ct

1912-13

From

The Deputy Commissioner,
Bangalore District

To

The Secretary to the Govt. of Mysore
General Revenue Depts
Bangalore.

Dated 29th May 1912

Despatched

Received

General No.

No. 46

Enclosure No.

Solicitor in Sanctions
in the Matter of executing
distraint warrants from
Officers in the Majesty's Terri-
tory.

GPB—1,50,000—10-6 11

2

of any Civil Court or of any Revenue Court specially directed by Government in this behalf in Mysore. (Vide section 43 of the Civil Procedure Code). It is not clear whether the Government have passed any orders specially directing any Revenue Court in Mysore to -- execute such decrees. If one has been issued I request that a copy of the same may kindly be furnished for reference. As requisitions are being constantly received from the Collectors of the British Presidencies for the recovery of dues from persons residing in Mysore, I -- solicit early instructions in the matter.

I have the honor to be

Sir,

Your most obedient servant.

Deputy Commissioner.